

REMARKS

Responsive to the outstanding Office Action, applicant has carefully studied the Examiner's rejections. As the previous action was made final, a request for continued examination accompanies this response. Favorable reconsideration of the application in light of the following amendments and detailed arguments is respectfully requested.

The claims pending in this application are claims 1-19. Claims 1, 8, 12, 13 and 19 have been amended herein.

REJECTIONS UNDER 35 USC §112

Claim 19 was rejected under 35 USC §112 as being indefinite for repeating the language of claim 16 from which it depends. Claim 19 has been amended to depend from claim 18, which it is believed should overcome the present rejection. It is therefore believed that all of the claims are in compliance with 35 USC §112, second paragraph and withdrawal of this rejection is therefore requested.

REJECTIONS UNDER 35 USC §102

Claims 1-3, 5-9 and 11-13 were rejected under 35 USC 102(e) as being anticipated by Brown (US 6,151,586). The Examiner notes that Brown discloses a method of incentivising members of a disease management programme to comply with the programme. The Examiner, in detail, states that Brown shows each element of

pending claim 1 in paragraph 2A, and in paragraphs 2B-2N details each of the dependent claims and the other independent claims in view of Brown.

In paragraph 10 of the action, the Examiner responds to applicants previous arguments. The Examiner maintains that, contrary to applicants assertion, Brown does distinguish between “general” and “specific” program areas. The Examiner also states that Brown awards points (referring to the evaluation criteria associated with diabetes). Further, with regards to claims 4 and 10, the Examiner indicates that applicants’ arguments are moot in view of the new grounds of rejection against these claims.

In response thereto, applicants have amended the independent claims to clarify the subject matter being claimed. Claim 1 defines a method of incentivising members of a disease management programme to comply with the programme. A plurality of general programme areas and a plurality of specific programme areas are defined, wherein the plurality of general programme areas are programme areas that if complied with will be of benefit to a member stricken with any disease managed by the disease management programme and wherein the plurality of specific programme areas are programme areas that are determined to be of particular benefit to a member afflicted with some but not all of the diseases managed by the disease management programme. Points are awarded to a member for each of the general programme areas in which the member participates and for each of the specific programme areas in which the member participates, only if the member is afflicted with a disease to which the specific programme area in which the member participates has been

determined to be of particular benefit. The total points to be awarded to the member are calculated and a reward is allocated to the member if the total number of points awarded to the member accumulate to a predetermined amount.

Applicant continues to assert that the disclosure of US 6,151,586 (Brown) does not anticipate the present invention. As noted above, the Examiner has stated, in the section "response to arguments", that "... the exemplary program areas of diabetes and asthma are general areas, and that customization of these programs to individual patients represents types of specific program areas...". Thus the examiner has equated diabetes and asthma as being general areas. It is respectfully submitted that this differs from the claimed invention in which diabetes and asthma are defined as diseases and not general program areas.

This distinction has been accentuated in the amendments to the independent claims. Thus in terms of the claimed invention diabetes and asthma are diseases each having general program areas **and** specific program areas that apply to their management. As such, the examiner's arguments are not applicable to the claims as amended.

Further, applicant continues to traverse the examiner's position regarding the awarding points and compliance with the programme. It is believed that the amendments to the claims further accentuate this difference. For example, the examiner in section 10B states that "... a patient participating in say the diabetes program area...". The examiner has again called the disease of diabetes a program

area whereas in the present invention diseases are not defined as program areas. With this in mind the examiner will appreciate that Brown in Fig 5B (as referred to by the Examiner) does not disclose awarding points merely for a good glucose monitor reading. Rather, the patient would need to comply with all the other evaluation criteria on the screen before being awarded a coupon.

In contrast, in the present invention as claimed, points are awarded for complying with a program area ***even though overall compliance*** is not yet achieved. Thus, a diabetic patient with a good glucose monitor reading will receive points in terms of the present invention as claimed and in contrast to Brown. This reward system is neither taught nor suggested by the Brown reference which instead would require overall compliance.

Similarly, independent claim 8 discloses a method of incentivising members of a disease management programme to comply with the programme. A plurality of general program areas and a plurality of specific programme areas are defined, wherein the plurality of general program areas are program areas that if complied with will be of benefit to a member stricken with any disease managed by the disease management program and wherein the plurality of specific program areas are program areas that are determined to be of particular benefit to a member afflicted with some but not all of the diseases managed by the disease management program. Measureables are defined within each of the general and specific programme areas so that a member's performance within said program area can be ascertained, as is a minimum level for

each measurable, which minimum level indicates a minimum required level of member performance within each of the program areas. Points are awarded to a member if the member obtains the minimum level of a measurable for a particular program area only if the member is afflicted with a disease which is associated with that particular program area and a reward is allocated to the member if the points awarded to the member accumulate to a predetermined amount. It is respectfully submitted that claims 12 and 13 have been amended in a similar manner and define these same patentably distinguishable concepts.

It is respectfully submitted that these claims are allowable over the applied art of record for the reasons as stated above with respect to claim 1.

#### REJECTIONS UNDER 35 USC §103

Claims 4, 10, 14, 15, 17 and 18 were rejected under 35 USC §103 as being unpatentable over Brown as applied above in view of Bro (US 5,722,418). Claims 16 and 19 were rejected under 35 USC §103 as being unpatentable over Brown as applied above in view of Bro and further in view of US 6,085,976 (Sehr). It is respectfully submitted that each of these dependent claims depend from one of independent claims 1, 8, 12 and 13 as discussed above. It is respectfully submitted that neither of the additional references as applied herein have any bearing on the patentability of independent claims 1, 8, 12 and 13. As these claims are submitted to be allowable, for

the reasons stated above, it is respectfully submitted that the present rejections under 35 USC §103 are moot.


### SUMMARY

For the reasons stated above, it is respectfully submitted that independent claims 1, 8, 12 and 13 are allowable over the applied art of record. Claims 2-7, 9-11 and 14-19 depend, directly or indirectly, from what are believed to be allowable base claims for the reasons stated hereinabove, and are believed to be allowable based, at least, upon this dependence.

Claims 1-19 are thus believed to be allowable. It is therefore submitted that the application is now in condition for allowance, and action towards that end is respectfully requested.

Should the Examiner wish to modify the application in any way, applicant's attorney suggests a telephone interview in order to expedite the prosecution of the application.

Respectfully submitted,



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